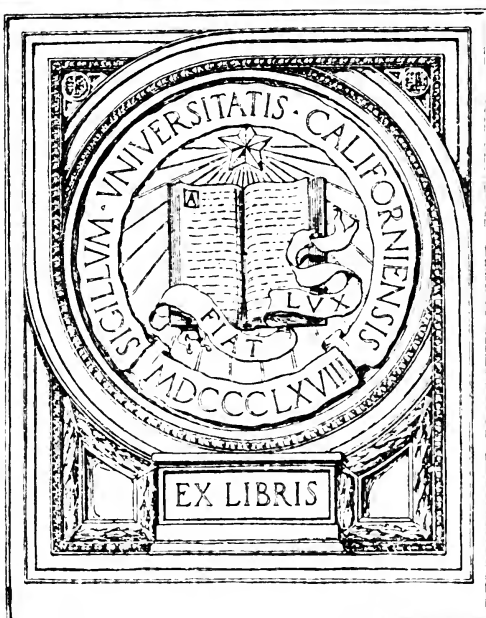


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John Thomas Doyle

Southern Pacific Railroad Company (of California) First Consolidated Mortgage Gold Bonds.

The Southern Pacific Railroad bonds, now offered on European markets under the above name made their appearance in New York, in the summer of 1893. On September 23rd of that year, the San Francisco "Examiner" published an exposition of their character and security, prepared by me, which was followed by their withdrawal from the market. In the Autumn of 1898 a contract, supplemental to the original mortgage and patching some of its defects, was put on record in California, and the bonds were offered for sale in Europe. A further examination of them as affected by that supplemental contract was published in the Examiner of December 23rd, 1898. The length of these papers, and the fact that without description of the topography of the country traversed by the lines in question they might not be readily understood out of California, has led me to recast the matter of these two reports, condensing them in places, and adding the topographical information referred to.

The name above displayed by which these bonds are designated is misleading. The word *FIRST* is liable to cause people to believe that the mortgage securing them is a first mortgage on the whole Southern Pacific railroad, or at least on the main road. Such is not the fact. It is only a first mortgage on fragments or sections of the road, most of which are short and quite unimportant. The other parts of it are subject to prior incumbrances of over thirty million dollars, as will appear below.

The Company's charter, which is the result of numerous consolidations of other roads, contemplates the construction of three lines of railroad between the cities of San Francisco and Los Angeles, across the Coast Range of mountains, and two between the latter city and the Colorado River, which is the eastern boundary of the State. These may be briefly described as follows:

A main stem from San Francisco, southwardly, 83 miles, to Carnadero Junction, where the proposed routes to Los Angeles first diverge from one another, and from which place they run as follows:

FIRST. From Carnadero Junction via Hollister, Tres Pinos, San Benito, and so across the Coast Range of mountains, by the *Panoche* Pass (elevation 2,120 feet) to Alcalde, on Los Gatos Creek, in the San Joaquin Valley; and thence, via Goshen and Bakersfield and across the Tehachapi mountains to Mojave, and thence southwardly to Los Angeles.

This line is all built *except the mountain gap between Tres Pinos and Alcalde*, (68 miles, in an air line, but winding as it must over a mountain pass, of unknown length).

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SECOND. Also from Carnadero Junction, via Pajaro, Castroville, Salinas and San Miguel, and thence across the Coast Range by the *Polonio* Pass (elevation 1,734 feet) to Poso or thereabouts (say 90 miles in an air line, but winding as it must, over the Pass, of unknown length.)

This has been built from Carnadero to San Miguel, at the foot of the Pass, but at that point, recoiling from the ascent it turns towards the west, and runs to Surf, on the Ocean shore. The gap across the mountain pass (also unbuilt) is about 170 miles.

THIRD. From Surf a line has been projected substantially following the shore line to Santa Barbara, whence there is a road to Los Angeles, making the third projected line to that city; not one of which is completed, for, in this instance, as in the other two, the mountain chain interposes between the two members of the road, leaving a gap of unknown length, to close which will require to either build across or tunnel through the mountain. It is said that the Company has spent considerable sums in making tunnels here, but the place is remote and little frequented and I have not been able to learn what work has been done, how much remains to be done, or whether it is being prosecuted or has been, as some say, abandoned.

As to the character of the country through which these three routes are laid out. The main stem from San Francisco to Carnadero Junction traverses the rich and fertile Santa Clara Valley. At Carnadero begins the ascent of the Panoche Pass, and the train by the time it reaches Hollister (12 miles) has attained an elevation of 284 feet, above sea level. The next six miles carry it to Tres Pinos (elevation 514 feet), and there it stops, in the heart of the mountains, at one fourth of the elevation needed to cross them.

The other branch, to avoid the mountain pass turns first to the west, and then to the south, following the Salinas Valley, gradually ascending till it reaches San Miguel, where a height of 616 feet is attained. This portion of the route extends through the very narrow valley of the Salinas River, the business of which can scarce be expected to pay more than running expenses, if so much. As far as Salinas (34 miles) it is used by the Monterey trains, which pass twice daily each way. But between Salinas and San Miguel, one daily slow (18 miles an hour) passenger train suffices. Between San Miguel and Surf the road overcomes a summit of 996 feet, and then descends to the sea level in the last 67 miles of its course. Over this portion of the road, trains are advertised to run three times per week, each way. It will be seen that the prospect of lucrative traffic over the 215 miles of the coast line road, lying south of Salinas (more than two-thirds of the whole) are scant, or *Nil*.

All of this road south of San Miguel was commenced by a company called the Southern Pacific Branch Railway Company, which issued a large amount of bonds on it, whereof \$3,578,000 were still outstanding at last report.

THE LINES EAST OF THE COAST RANGE.

The lines between Los Angeles and the Colorado River are made up of, First: a road from Mojave across the desert, 242 miles to the river, at a point called the Needles; and, second, one from Los Angeles eastward *via* Colton to the same stream at Fort Yuma.

It will be inferred from the above that no one of the three routes described between the two cities is continuous, between its declared termini; and such is indeed the fact. The property consists of three connected roads on the west side of the Coast Range of mountains, and

two separate ones of the east side of the same chain, between which no connection has been built.*

Now as to the mortgages and the companies' bonds now offered for sale.

The Southern Pacific Railroad Company's first mortgage is dated April 1st, 1875, and covers property of which the following is an abbreviated description:

The railroad and telegraph line, running from San Francisco in a southerly and southeasterly direction *via Carnadero junction, Salinas valley and Polonio pass* to the Colorado River at or near the Needles. Also, from Carnadero junction to San Benito.† Also, from Los Gatos creek, *via* Goshen, to the junction with the first mentioned line, somewhere between Poso creek and Kern river. Also, from the junction near Tehachapi, *via* Los Angeles, to the Texas Pacific road at Fort Yuma. Also, from Los Angeles to Wilmington on San Pedro bay—aggregating 1,150 miles.

This mortgage was made largely in advance of construction, and it is assumed to attach to, and become a lien on the road, as fast as constructed, so far as the location of the latter comes within the general words of description in the mortgage. The road having been built from San Francisco, *via* Carnadero junction, to Tres Pinos (27 miles short of San Benito), and from Carnadero junction to San Miguel, the mortgage becomes a lien on that much of the road, being the northerly 224 miles of the part west of the Coast Range. And should the gap between Hollister and Alcalde be closed by this company (which is quite improbable) the first section of it—viz.: from Tres Pinos to San Benito—will also become subject to the same lien.

The road is also built from Alcalde to Goshen (61 miles); thence, *via* Poso and Bakersfield, to Mojave (141 miles), and from that place both to the Needles direct, and, *via* Los Angeles, to Yuma (356 miles), and from Los Angeles to Wilmington (20 miles more). These make an aggregate east and west of the Coast Range of 802 miles, besides the 242 between Mojave and the Needles, which are sold to another company. On these portions of the road, aggregating 802 miles, the mortgage of 1875 is also a first lien.

According to the latest report of the company giving such particulars, there was due on this first mortgage \$30,577,500, a sum far beyond the value of the property mortgaged. It is manifest that a second mortgage on the same property is of no value as security for a loan.

The mortgage of 1893 is such second mortgage on the greater part of the route. It includes the same premises as those described in that of 1875, except the road from Mojave to the Needles, under the following description (also abbreviated):

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* A reader unacquainted with Southern Pacific ways may perhaps wonder on reading this statement how the journey between San Francisco and Los Angeles is made by rail, as described in advertisements and guide books. The answer is that it is not made, over *any* of these routes, west of the Coast Range, but over another route, owned, controlled and managed by the same parties. The last mentioned route runs around the bay shore *via* San Pablo, Martinez, Lathrop, and so up the San Joaquin Valley to Goshen, Bakersfield, Tehachapi and Los Angeles. No one of the three lines described west of the Coast Range mountains and south of Carnadero Junction has an earning capacity sufficient to pay more than running expenses, if that much. Yet they are expected to carry a mortgage of \$30,000 per mile!

† San Benito is on the projected line across the Panoche Pass.

From San Francisco, via San Mateo, Santa Clara, San Benito, Monterey, Fresno, Kings, Tulare and Kern, to Mojave.

Also from near Tehachapi, via Los Angeles to the Colorado River, at Yuma, 356 miles.

Also from Gilroy to Salinas City, 33-1/2 miles. Also from Salinas City to a point in Kern County, south of Tulare Lake, intersecting the San Joaquin division of the Southern Pacific Road (200 miles) and Also from Los Angeles to San Pedro, 24 miles.

It will be observed that this description excludes the road between Mojave and the Needles, and includes so much of the unbuilt road across the Panoche Pass as lies between San Benito and Alcalde, and the four miles of road between Wilmington and San Pedro. With these unimportant exceptions, the two mortgages cover the same premises, and that of 1875 has priority, and preference.

But besides being a second mortgage on the roads above described, the instrument under examination includes the following roads, and parts of roads (*dissecta membra*) scattered up and down the State, for the location of which I must refer the reader to the best map that he can obtain, as detailed description would occupy too much space. I add to the name of each town mentioned its population, if given in the last census, and to each road named, mention of the extent to which it is built or otherwise.

2. Hillsdale to New Almaden, 7 miles (built).
3. Pajaro to Santa Cruz (population 5,496), Aptos and head of Aptos Creek, 27 miles (built).
4. San Miguel (population 458) to the Southern Pacific Railroad near Saugus, 250 miles; this has been built and operated as far as Surf, 97 miles. It is also built from Saugus westward to Santa Barbara, 78 miles, between which and Elwood there is a narrow-gauge road. This road however is subject to a prior mortgage made by the branch company that built it, on which \$3,578,000 were due, according to the latest report of the company which imparts such details.
5. Castroville (population 641) to Monterey (population 1,662), Pacific Grove (population 1,336), etc., 16 miles (built).
6. Martinez (population 1,600) to Tracy, and thence to S. P. road near Pampa (260 miles). It is built to Goshen, 149 miles.
7. Avon to Pleasanton, 25 miles. (It is built to San Ramon), 20 miles.
8. Stockton (population 14,424) to Milton, 25 miles (built), thence to Big Trees and Altaville, 80 miles (unbuilt).
9. Peters to Poso, 218 miles, with branch to Modesto, 16 miles more; built to Merced (population 2,000), 59 miles, remainder unbuilt. Branches projected to Sycamore, Fresno and Tulare (all unbuilt).
10. Berenda to Perry's Ranch, 25 miles, built to Raymond (21 miles), rest unbuilt.
11. Los Angeles to San Diego (with branches), estimated 140 miles. This road belongs to the Southern California Railroad Company, as shown in the railroad commissioners' map of the State.
12. Los Angeles (population 50,395) to Santa Monica (population 1,580), 18 miles (built).
13. Southern Pacific Junction to Point Firmin, 5 miles (built).
14. Long Beach (population 564) to Whittier (population 525), Ramona, etc., 60 miles. (About 15 miles built that might come within the description; rest unbuilt.)
15. Long Beach, easterly 4 miles (unbuilt).

16. Ramona to Crafton, 71 miles (unbuilt).
17. San Francisco to San Bruno, 11 miles (unbuilt).
18. Kings City to Lewis Creek, 15 miles (unbuilt).
19. Paso Robles to Carissa Plains, 56 miles (unbuilt).
20. San Luis Obispo to Santa Ynez Mission, 35 miles (unbuilt).
21. Santa Ynez River to Lompoc and S. Y. Mission, 35 miles (unbuilt).
22. San Buenaventura to Los Angeles. (Built from Los Angeles to Chatsworth, 30 miles; rest unbuilt.)
23. Santa Monica to Wharf, 3 miles (built).
24. Ontario to Elsinore, 41 miles (unbuilt).
25. San Bernardino to Riverside, 28 miles (belongs to another company).
26. Declezville to Declez, 3 miles (built).
27. Redlands to Yucaipa Valley, 15 miles (unbuilt).
28. San Bernardino to Motor Junction, 8 miles (unbuilt).
29. Collis to Fresno, 16 miles (built).
30. Mendota to Lokern, 100 miles (built from Collis to Armona, 26 miles).
31. Lokern to Rio Bravo, 16 miles (built).
32. Stevens to Bakersfield, 15 miles (built).
33. Lokern to Asphalto, 10 miles (built).

Whether these last three are subject to the first mortgage, *quere?*

34. Stevens to Pampa, 56 miles (unbuilt).
35. Fresno to headwaters San Joaquin river, 75 miles (unbuilt).
36. Montpelier to Yosemite Valley, 92 miles (unbuilt).
37. *Such other or further branch roads as the company may purchase or acquire.* These are practically in the moon. This is perhaps the earliest attempt to mortgage property *not yet defined even in the mind of the mortgagor.* But it is quite natural, as these parties would not have a road without a mortgage on it of \$30,000 per mile.

With these facts before him, the reader will recognize that the mortgage of 1875 being a first lien on the existing road from San Francisco *via* Carnadero junction to Tres Pinos and San Miguel, on the west side of the Coast range, as well as from Alcalde to Goshen, and thence to the Colorado River both at the Needles and Fort Yuma, and the short road from Los Angeles to Wilmington, and there being more than thirty million dollars due on it, a second mortgage, such as this of 1893, on the same property, affords no security to the holders of bonds under it.

The road from San Miguel via Surf, and Santa Barbara to Los Angeles, was commenced by another company (now consolidated with the Southern Pacific), and its first owners made a mortgage on it, which also takes precedence of that of the Southern Pacific's of 1893. The amount reported due on this encumbrance is \$3,578,000. Hence this portion of the road affords no security to the present mortgage. There is also the consolidated mortgage of 1888 on the whole of the property, on which is due, per latest report, \$524,000.

A portion of the road running out of Stockton to Milton, etc., was built by the Stockton and Copperopolis Company, and stands mortgaged by that company for \$500,000, which is also a prior lien to the mortgage under consideration. The company's mortgage of 1888 (one of those which that of 1893 is designed to replace) recites among other things the existence of the following mortgages, viz:

| | |
|---|------------|
| On the Pajaro and Santa Cruz road, on which was due.... | \$ 530,000 |
| “ “ Monterey road | 220,000 |
| “ “ Los Angeles and San Diego..... | 556,000 |
| “ “ San Pablo and Tulare..... | 1,023,000 |

and the *intention* of the company to retire the same and cause these mortgages to be satisfied, and also to retire and cancel certain unissued bonds, viz:

| | |
|--|-------------|
| Of the Los Angeles and San Diego road for..... | \$2,224,000 |
| San Pablo and Tulare..... | 2,727,000 |

and cause those mortgages to be satisfied; and, as soon as can be done on satisfactory terms, to arrange for the redemption of the mortgage bonds issued by the S. P. Branch Railway Company, and when arrangements have been made for the redemption of all thereof, to cause the same to be canceled, and that mortgage to be satisfied of record.

I do not know whether any of these good intentions have been fulfilled (all of them certainly have not), but persons proposing to purchase the issue now offered for sale would do well to inform themselves on the question. Even if they all have, the liens admitted in the company's report above referred to, as prior to the mortgage of 1893, on the property affected by them, as above, amount to \$35,179,500. The portions of roads designated in the above enumeration by the numbers 2, 3, 4, 5, 6, 7, 9, 10, 12, 13 and 14 are included in the \$38,000,000 mortgage of 1888, while that designated by the number 8 is in the Stockton and Copperopolis mortgage, so that the only roads on which this instrument of 1893 can be a first mortgage are, Peters to Oakdale (17 miles), part of No. 9; Los Angeles to Chatsworth Park (30 miles), part of No. 22; Santa Monica to the wharf (2 miles), part of No. 23; No. 9; Declez to Declezville (3 miles); Collis to Armona (26 miles), part of No. 30; Long Beach to ——— (15 miles), part of No. 14, and Bakersfield to Asphalto (41 miles), comprising the three Nos. 31, 32 and 33. These make, in all, 134 miles of road on which the mortgage is a first lien, and on the strength of this fact the bonds, amounting now to over nineteen million dollars, are offered for sale as “*FIRST consolidated mortgage gold bonds*”!

Only one of these has a continuous length of over forty miles, while the other six average but $15\frac{1}{2}$ miles each, and are disconnected with one another. Profit from them (should they be bought by the bondholders, at foreclosure sale) is obviously out of the question; scattered as they are, they would require seven different equipments (cars, locomotives, etc.), as many sets of train hands, conductors and local superintendents, and other separate employees. Only one of them reaches a place of considerable importance; the other places named appear too insignificant to be noticed in the census.

The aggregate of bonds already issued under this precious “first consolidated gold mortgage of 1893” is, according to the latest report of the company, which gives such trifling details, \$19,669,000 (vide report of S. P. Company for the year ending June, 1897, page 65), and this for roads, without terminals or equipment, and only capable of use as feeders to the Southern Pacific road!

After what has been said it seems scarce necessary to pursue further an enquiry as to the value of these bonds. But as the parties have attempted to make them attractive by the new contract above mentioned between the mortgagors, the mortgagees and the Southern Pacific Company of Kentucky, lessees of the roads, dated August 18th, 1898, it becomes necessary to examine them in the light of that

instrument, with the following results. This supplemental contract of August, 1898, does indeed remedy one gross defect in the mortgage of 1893, which I formerly pointed out, but it discloses and emphasises others of nearly equal importance and fatal to the bonds under consideration. Two of these may be briefly explained as follows:

1. The Southern Pacific Railroad Company of California, whose "first consolidated mortgage gold bonds" are now offered for sale, is not the present company of that name, but one which was formed in May, 1888, by the consolidation of eighteen different companies, formerly existing, each of which was swallowed up by it, in that consolidation, just as it was in turn swallowed up on the 12th of April, 1898, when, by articles of that date, it was consolidated with the Northern Railway Company, the Northern California Railway Company, and the California Pacific Railroad Company. These consolidations are permitted by our law, but its provisions on the subject are only general, permitting consolidation of assets, stock property, etc., without any provisions for details. It is recognized, and the supplemental contract proceeds directly on the assumption that the several companies entering into the consolidation thereby pass out of existence, and that a new corporation is created by it, which succeeds to the property, rights, and duties of the several constituent companies;

This being so, the Southern Pacific Railroad Company, created by the consolidation of May, 1888, succeeded thereby to the responsibilities and rights of each one of the eighteen companies which were absorbed in it, and similarly the present company of the same name has succeeded to its rights as well as to those of the three other companies which entered into consolidation with it in April, 1898. Now several, if not all, of these various constituent companies had made large mortgages on their separate roads, to secure an issue of bonds, and these bonds they had the right to issue and sell, up to the gross amount expressed in the respective mortgages. In like manner the Southern Pacific R. R. Company, of May, 1888, itself made a mortgage for \$38,000,000 on all the same roads on which some \$13,000,000 or so only were issued, leaving about \$25,000,000 still issuable. All these various mortgages were and are prior in time and in right to that of 1893, and, if the power to issue bonds under them still continues in the existing Southern Pacific R. R. Company, *the bonds so issued will become a prior lien to those issued under this mortgage of 1893*:—a result to be contemplated by the confiding public who are invited to buy them in Berlin or Frankfurt-on-the-Main at a little above par. Strange to say, this monstrous power to destroy the value of the bonds offered for sale, by the issue of others which will take precedence of them, is not only claimed by the Southern Pacific R. R. Company, but the claim is put forward in this very supplemental contract, and assented to, by acceptance, by the New York Central Trust Company, as trustee for the bondholders; so that when done it can be claimed to have been done with the assent of the latter through their trustee and representative! This result is attained under the covenant marked D in the paper I have designated as a supplemental contract, which expressly provides that the Southern Pacific Railroad Company covenants that it will not increase its mortgage indebtedness *under any of the mortgages of the Northern Railway Company or the California Pacific Railroad Company*. This covenant is a clear and explicit claim of the right and power to continue to issue further bonds under the mortgages of the companies named,

which right and power it agrees not to exercise. Acceptance by the mortgagee of this covenant not to exercise the right is a clear admission by the latter of its existence, just as explicit as the payment of a debt is an admission of indebtedness and liability to pay. Now the right to continue to issue bonds of any one of these constituent companies, can only exist by virtue of the consolidation, and if it exists as to one company, it must exist as to all! There remains then the power to complete the issue of the forty-six millions contemplated by the first mortgage of April 1st, 1875, the thirty-eight millions provided for by that of 1888, the unknown millions of the Southern Pacific Branch Railway Company, to say nothing of the unissued bonds of the San Pablo and Tulare Company, the San Pablo and Tulare Extension Company, and any other constituent companies of the present S. P. R. R. Co.!

Let it not be supposed that I am putting on this instrument any construction not designed by the authors. The claim of authority by the present company to continue to issue bonds under the mortgages of companies, which ceased to exist by the same act that called it into existence, is made throughout the document, and in the most distinct and explicit manner. *Ex. gr.* under the letter A. The company covenants for a limitation of its *further* issues under the Southern Pacific mortgage of 1893, so that the total issue of bonds under it to be made for the purpose of replacing (dollar for dollar) the earlier mortgages of the S. P. R. R. Co. and the S. P. Branch Railway Company, etc., shall not exceed \$30,000,000,* and there are others of similar import under the heads E and F.

2. As a railroad, without an equipment of locomotives, cars, etc., is incapable of use, the absence of a valid mortgage on the rolling stock of the road is a fatal objection to these bonds. The mortgage indeed purports to include the rolling stock, equipment and machinery (present or hereafter acquired), but the law of California requires mortgages of personal property to be recorded in the county, a requirement which imports the necessity of description of the property sufficient for identification. No description whatever of the rolling stock of this road is contained in the mortgage, nor is it even alleged that it owns any, and the letters S. P. generally inscribed on the locomotives, cars, etc., in use, may stand for any one of the four companies with those initials. The supplemental contract attempts to overcome this objection by a covenant to keep a list of the mortgaged rolling stock on file in the office of the Central Trust Company in New York; but this covenant, even if fulfilled, is ineffectual as a compliance with the legal requirements to record.

It seems needless to go further in the examination of these bonds, though much remains unsaid. It appears to me that the objections to them suggested by the most ordinary prudence are quite insuperable.

JOHN T. DOYLE.

* Just here is presented a curious arithmetical difficulty which the reader will solve for himself. The aggregate of these old bonds outstanding is over \$36,000,000. They are to be replaced by and issue of the present bonds, "dollar for dollar," and yet the amount of the latter to be issued for the purpose is limited to \$30,000,000! How this miracle of finance is to be effected we are not told; yet unless taken up and discharged they remain a prior lien on the property affected.

